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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/959,748	10/28/1997	PAUL GENE CLEMMER	PD-30-3986DI	5073

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LOIS A GIANNESCHI  
ALLIED SIGNAL INC  
LAW DEPARTMENT  
P O BOX 2245  
MORRISTOWN, NJ 079622245

EXAMINER

PRYOR, ALTON NATHANIEL

ART UNIT	PAPER NUMBER
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1616

25

DATE MAILED: 06/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
**08/959,748**

Applicant(s)  
**Clemmer et al**

Examiner  
**Alton Pryor**

Art Unit  
**1616**

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Mar 28, 2003
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-9, 11, 15-18, and 20-22 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9, 11, 17, 18, and 20-22 is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-8, 15, and 16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other:

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### **Detailed Action**

#### ***Claim Rejections under 35 U.S.C. 102(e)***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

**(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.**

Claims 1-4,6-8,15,16 are rejected under 35 U.S.C. 102(e) as being anticipated by Bonniface et al. (US 5,672,786). Bonniface teaches the process of the instant invention. Bonniface teaches a process for the production of difluoromethane comprising (a) contacting dichloromethane with hydrogen fluoride in the presence of a fluorination catalyst (metal of the oxide, metal fluoride or oxyfluoride) to produce a product stream comprising difluoromethane, monochloromonofluoromethane and unreacted starting materials (b) separating difluoromethane from the product stream from step (a) and c) recovering difluoromethane and recycling HCFC 31 to step (a) wherein sufficient hydrogen fluoride is employed in the process such that during step (b) the molar ratio of hydrogen fluoride to monochloromonofluoromethane is at least about 100:1.

In addition, Applicant must submit evidence under 37 C FR 1.608b (1) patents and affidavits or declaration which demonstrate that Applicant is entitled to a judgement relative to

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the Patentee and (2) an explanation stating the basis upon which the Applicant is entitled to the judgement.

***Claim Rejection under 35 U.S.C. 103(a)***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bonniface as applied to claims 1-4,6-8,15,16 above. See 35 U.S.C. 102(e) rejection above. Bonniface does not teach the ratio of HF:ClFCH<sub>2</sub> ranging from 25:1 to 75:1. In fact, the prior art teaches against such a range due to the toxicity associated with high levels of ClFCH<sub>2</sub>. The prior art teaches a HF:ClFCH<sub>2</sub> ratio of at least 100:1 to decrease the toxicity associated with ClFCH<sub>2</sub>. Applicant provides no unexpected data showing the advantage of a HF:ClFCH<sub>2</sub> ratio range of 25:1 to 75:1.

***Allowable Subject Matter***

Claims 9,11,17,18,21,22 are allowable. The prior art does not teach or suggest the preheating of a composition comprising HF and CH<sub>2</sub>Cl<sub>2</sub> to form a vapor then subsequently exposing the composition to the formulation catalyst.

***Other Matters***

Examiner acknowledges Applicant's amendment filed as paper no. 24. However, after review of amendment, Examiner maintains rejection according to Bonniface of record.

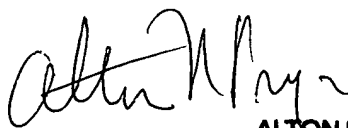
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***Telephonic Inquiry***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alton Pryor whose telephone number is (703) 308-4691. The examiner can normally be reached on Monday through Friday from 8:00 a.m. to 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jose Dees, can be reached on (703) 308-4628. The fax phone number for this Group is (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1235.



**ALTON N. PRYOR  
PRIMARY EXAMINER**

Alton Pryor

Patent Examiner, AU 1616

10/2/00